

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

Jade Thompson,	:	
	:	
Plaintiff,	:	
	:	Case No. 2:18-cv-628
v.	:	
	:	JUDGE MICHAEL H. WATSON
Marietta Education Association, et al.,	:	
	:	Magistrate Judge Chelsey M. Vascura
Defendants.	:	

**MEMORANDUM OF MARIETTA CITY SCHOOL DISTRICT
BOARD OF EDUCATION IN RESPONSE TO PLAINTIFF'S
MOTION FOR A PRELIMINARY INJUNCTION**

Now comes Defendant Marietta City School District Board of Education (the “Board”), in response to the Motion for a Preliminary Injunction of Plaintiff Jade Thompson (“Plaintiff”), filed July 23, 2018 (Doc 15). In response, the Board takes no position as to whether Plaintiff’s First Amendment rights are being violated or whether the Board should be enjoined from recognizing the Marietta Education Association (the “Union”) as the exclusive representative. The Board will respectfully honor the decision of the Court in this regard.

With that said, the Board is currently required to recognize the Union as the deemed-certified, exclusive representative of the teachers employed by the Board pursuant to O.R.C. Sections 4117.04 and 4117.05. Contrary to Plaintiff’s assertion in its Memorandum of Points and Authorities In Support of Motion for a Preliminary Injunction (Doc 15-1), the Board has not “appointed” the Union as the exclusive representative. Ohio Revised Code section 4117.04 indicates that “[p]ublic employers shall extend to an exclusive representative designated under Section 4117.05 of the Revised Code, the right to represent exclusively the employees in the

appropriate bargaining unit and the right to unchallenged and exclusive representation***.” O.R.C. 4117.04(A), emphasis added. In addition, Ohio law requires that “[a] public employer shall bargain collectively with an exclusive representative designated under Section 4117.05 of the Revised Code ***.” O.R.C. 4117.04(B), emphasis added. Ohio Revised Code Section 4117.05 sets forth the procedures for an employee organization to become the exclusive representative, and states:

An employee organization becomes the exclusive representative of all the public employees in an appropriate unit for the purposes of collective bargaining***.

There is no dispute that the Union is currently the exclusive representative of teachers employed by the Board, under Ohio law. However, the Board’s recognition of the Union is mandatory under state law, not discretionary; and the Board does not appoint the representative.

Respectfully submitted,

/s/ Nicole M. Donovan

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 29th day of August 2018, the foregoing Memorandum in Response was served upon the following via the Court's electronic filing system and electronic transmission to:

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